

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF UTAH, IN AND FOR UTAH COUNTY.

P-1

CAUSE #2888

Provo Reservoir Company,
a corporation

Plaintiff

vs

Provo City,
a municipal corporation et al.

Defendants

ANSWER

Counterclaim and Cross Complaint
of

Little Dry Creek Irrigation Co.,
a corporation

Now comes the defendant Little Dry Creek Irrigation Company, a corporation, and by stipulation of counsel and by leave of court, first had and obtained, answers the complaint of the plaintiff herein, and admits, denies and alleges as follows:

1. This defendant admits the allegations in the complaint of plaintiff contained in paragraphs numbered 1 to 27 both inclusive and paragraph numbered 37.

2. That this defendant has no knowledge, information or belief sufficient to answer any or either of the allegations in paragraphs numbered 28, 29, 29 A, 29 B, 29 C, 29 D, 29 E, 30, 31, 32, 33, 38 and 39 of plaintiff's complaint and, therefore, denies each and every allegation of the said paragraphs.

Further answering the complaint of the plaintiff and by way of counterclaim against the plaintiff and as a cross complaint against each and all of the defendants, this defendant alleges and shows to the court.

1. This defendant adopts and alleges as a part of its counterclaim against the plaintiff and as a cross complaint as to each and all of the other defendants herein, each and every allegation contained within paragraphs numbered 1 to 26 both inclusive of plaintiff's complaint herein, the same as if here set forth in full.

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ANSWER

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Little Dry Creek Irrigation Co.,
a corporation

Now comes the defendant Little Dry Creek Irrigation Company, a corporation, and by stipulation of counsel and by leave of court, first had and obtained, answers the complaint of the plaintiff herein, and admits, denies and alleges as follows:

1. This defendant admits the allegations in the complaint of plaintiff contained in paragraphs numbered 1 to 27 both inclusive and paragraph numbered 37.

2. That this defendant has no knowledge, information or belief sufficient to answer any or either of the allegations

Further answering the complaint of the plaintiff, this defendant denies generally each and every allegation in the plaintiff's complaint contained, not herein specifically admitted or denied.

by way of counterclaim against the plaintiff and as a cross complaint against each and all of the defendants, this defendant alleges and shows to the court.

1. This defendant adopts and alleges as a part of its counterclaim against the plaintiff and as a cross complaint as to each and all of the other defendants herein, each and every allegation contained within paragraphs numbered 1 to 26 both inclusive of plaintiff's complaint herein, the same as if here set forth in full.

2. This defendant is a corporation duly organized and existing under the laws of the State of Utah, and by its charter and by full compliance with the laws of the State of Utah, it is authorized and empowered, among other things, to own, hold, use and distribute water to consumers for irrigation, domestic and other beneficial uses, particularly to its members and its stockholders.

3. That in or about the year 1850 the predecessors in interest of this defendant at great expense, constructed a canal from Provo River at and near the mouth of Provo Canyon to the lands of its now respective stockholders and members, and then appropriated of the unappropriated water of said river 20.17 second feet, by diverting the same into said canal, and ever since its predecessors in interest and this defendant have used said water, controlled and distributed the same to and upon the lands of its stockholders and members for the purpose of irrigating the same and for providing its stockholders and members with water for domestic and other beneficial uses. In Utah County, State of Utah.

4. That in making said appropriation of the water of said river as aforesaid, this defendant and its predecessors in interest fully complied with all requirements of the laws of the State of Utah relative to the appropriation of water, and ever since said appropriation have continuously used the same for the beneficial purposes aforesaid, economically and without waste.


5. That the lands of the stockholders and members of this defendant corporation without water for artificial irrigation, are barren, unproductive and of little value, but with water for irrigation, the same are rendered productive of all kinds of agricultural crops, fruits and garden products and of great value, and that the use of said water so appropriated, controlled and distributed by this defendant to its stockholders and members is a necessary and beneficial use, and that the same is and always has been used economically and without waste.

6. That the plaintiff and each of the other defendants herein, as this defendant is informed and believes, and thereof alleges the fact to be assert and set up some claim or interest adverse to the ownership, right, title and interest of said defendant to the use of said water of said river and the distribution thereof and control/for and in behalf of its members and stockholders as claimed by this defendant, but this defendant has not sufficient knowledge or information to enable it to set forth herein the character or nature of said claims or interests so asserted and set up, or any of them.

7. This defendant further alleges that the several claims or interests asserted and set up by the plaintiffs and each of the other defendants, are wrongful, without right, unfounded in fact or law, and are a cloud upon this defendant's title and right to the use, possession and ownership and enjoyment of said water of said Provo river for the purposes set forth.

Wherefore, this defendant prays judgment that the plaintiff and each of the other defendants herein, may be required to set forth any and every adverse claim, interest or demand by them and each of them in and to the water of said Provo River and the right to the use thereof so claimed by this defendant to the fact that their several adverse claims, pretensions and demands may be adjudicated, and declared null and void as against this defendant, and that the title, ownership and interest thereto to this defendant in and to the water of said river, so claimed by it as herein set forth, may be quieted and confirmed as against the plaintiff and each and all of the other defendants herein, and that the interest, title and ownership of this defendant thereto as herein set forth may be adjudicated and decreed to be good and valid.

This defendant prays for such other and further relief in the premises as to the court may seem just and equitable and for its costs in this behalf expended.


Attorney for defendant
Little Dry Creek Irrigation Co
a corporation

County of Utah :
 : SS.
State of Utah :

C. L. Johnson, being first duly sworn on oath deposes and says, I am an officer of Little Dry Creek Irrigation Company, a corporation, to-wit, the President thereof, that I have read the above and foregoing answer, counter-claim and cross complaint and know the contents thereof, that the same is true of my own knowledge, except as to the matters therein stated on information and belief, and as to those matters, I believe them to be true.

C. L. Johnson

Subscribed and sworn to before me the 20th day of September, A. D. 1914.

N. C. Coleman
Notary Public



My commission expires _____.

Due and legal service of the above and foregoing answer, counter-claim and cross complaint had and consent to the filing thereof is hereby made the 11 day of ~~September~~, A.D. 1915.

A. J. Evans
Attorney for Plaintiff.

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Miss Rennie Croft
a confidential friend
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Proposing a manuscript
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